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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

ENGINEERED ROOF DE-ICING INC., a Utah Limited Liability Company Plaintiff, v. VALIN CORPORATION, a California Corporation Defendant.	Case No. 2:20-cv-00181-DBB-JCB DECLARATION OF SHELLA DEEN IN SUPPORT OF DEFENDANT VALIN CORPORATION’S REQUEST FOR MONETARY SANCTIONS FOLLOWING MOTION TO DISMISS District Judge David Barlow Magistrate Judge Jared C. Bennett
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I, Shella Deen, declare as follows:

1. I am attorney duly admitted to practice before all Courts in the State of California and have been admitted *pro hac vice* to practice before this Court. I am the Firmwide Litigation Chair and a shareholder of Hoge, Fenton, Jones & Appel, Inc., attorneys of record for Defendant and Counter claimant Valin Corporation (“Valin”). Hoge Fenton has been the trusted legal

advisor for Valin for over a decade in both transactional and litigation matters. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto. I make this declaration in support of Valin's Request for Monetary Sanctions that accompanied Valin's Motion to Dismiss Engineered Roof De-Icing Inc.'s ("Engineered") First Amended Complaint; Request for Monetary Sanctions ("Motion")(ECF 24).

2. I am a senior shareholder at Hoge, Fenton, Jones & Appel, Inc. and have been practicing law in the United States since 1990. I am also a retired Solicitor of the Supreme Court of England and Wales, where I practiced for 3 years, prior to 1990. My hourly billable rate for this matter is \$700, which is commensurate with other attorneys with my experience in Santa Clara County, California, particularly patent infringement cases.

3. My associate, Daniel J. Marsh, who has worked with me on this matter, and who I supervise, is a senior associate at Hoge, Fenton, Jones & Appel, Inc., and has been practicing law since 2012. His hourly billable rate for this matter is \$475, which is commensurate with other attorneys with his experience in Santa Clara County, California. Mr. Marsh previously submitted a declaration in support of the Motion for some of the time he expended on the Motion (ECF 24-1).

4. Jared J. Braithwaite is a shareholder and a patent attorney at Maschoff Brennan and has been practicing in Utah since 2009 and in California since 2012. His hourly rate in this matter is \$340, which is commensurate with other attorneys with his experience in Park City, Utah. He spent 6.5 hours preparing and filing the motion and appearing at the hearing on the Motion. His staff (at an hourly rate of \$110) spent one hour on the Motion. Valin retained Attorney Braithwaite to act as local counsel for this matter as Mr. Marsh and I are only admitted *pro hac vice* in Utah and it is necessary to retain local counsel.

5. Attached hereto as Group Exhibit A are true, correct and accurate copies of the invoices for this matter that have been issued by my firm to Valin. Valin has paid all of these invoices in full, except for the October invoice which was just issued and which will be paid. The invoices have been redacted to protect attorney/client and work product information. The non-redacted time entries relate to the Motion. I have spent a total of 15.5 hours on the Motion, including time spent for (1) analysis of the appropriate type of motion given the egregious failures of Engineered to litigate this matter and its failure to follow the orders of this Court; (2) reviewing the past orders of this Court; (3) communicating, analyzing and coordinating the defense and strategy with local Utah counsel and the client, Valin; (4) reviewing relevant case law and statute; (5) reviewing, revising and drafting the moving and reply papers for the Motion and supporting declaration; (6) reviewing the opposition papers filed by Engineered following the Court's Order to Show Cause; (7) preparing for and appearing at the hearing of the Motion; (8) reviewing and evaluating the Order following the Motion; and (9) preparing this declaration. I spent 7.3 hours on the Motion in August 2020 and 8.2 hours on the Motion in October 2020, for a total of 15.5 hours for a total of **\$10,850**, as reflected in the non-redacted time entries in my firm's invoices attached as Group Exhibit A. My associate, Daniel Marsh spent a total of 8 hours on researching the case law, statutes and issues for the Motion, preparing the initial draft of the Motion and the supporting declaration, for a total of **\$3,800**, as reflected in the non-redacted time entries in my firm's invoices attached as group Exhibit A. Mr. Marsh was on paternity leave at the time of the opposition and hearing, necessitating more involvement by me on this matter. The total attorney's fees expended at Hoge by Valin for the Motion is **\$14,650**.

6. Attached hereto as Group Exhibit B are true, correct and accurate copies of the invoices for this matter that have been issued by my local counsel, Maschoff Brennan. Valin has

paid all of these invoices in full, except for the October invoice which has just been issued. The fees incurred were \$650 for August and \$1,598 for October, for a total from the Maschoff Brennan firm of **\$2,248**.

7. In total, Defendant Valin has incurred **\$16,898** in attorney fees analyzing the issues, preparing, and arguing the Motion and this declaration.

I declare under penalty of perjury under the laws of the State of Utah that the foregoing is true and correct.

Executed on October 28, 2020, at San Jose, California.



Shella Deen